

# PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number:  
**045636-5039-US**

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on \_\_\_\_\_

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Application Number:  
**09/632,806**

Filed:  
**August 4, 2000**

First Named Inventor:  
**Lise THIBODEAU et al.**

Art Unit:  
**1648**

Examiner:  
**J. Parkin, Ph.D.**

Applicant(s) request(s) review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).  
Note: No more than five (5) pages are provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
- ☒ attorney or agent of record.  
Registration number 45,697
- ☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

  
Signature

Sally P. Teng  
Typed or printed name

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Telephone number

November 7, 2005  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 1 form is submitted.



PATENT  
Attorney Docket No. 045636-5039

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Lise Thibodeau <i>et al.</i>	)	Confirmation No.: 2513
Application No.: 09/632,806	)	Art Unit: 1648
Filed: August 4, 2000	)	Examiner: J. Parkin, Ph.D.
For: USE OF HIV-1 GP120 AND GP160	)	
PROTEINS MODIFIED IN THE V3 LOOP	)	
FOR THE PREPARATION OF VACCINE	)	
COMPOSITIONS CONTAINING THE	)	
SAME	)	

Commissioner for Patents  
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Sir:

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

In response to the final Office Action of May 5, 2005, Applicants respectfully request a pre-appeal brief conference to review the pending rejection. A Notice of Appeal is filed concurrently herewith. Applicants respectfully submit that the final rejection of claims 24-36 and is improper.

Applicants note that the Office Action Summary (PTOL-326) indicates that claims 24-31 and 34-36 are allowable and claims 32 and 33 are rejected. However, page 1 of the Detailed Office Action indicates that claims 24-31 and 34-36 are rejected under 35 U.S.C. § 112, first paragraph. Applicants believe that page 1 of the Office Action contains an inadvertent typographical error and that claims 32 and 33 are the only claims rejected under 35 U.S.C. § 112, first paragraph.

Applicants assert that the final rejection of claims 32 and 33 or of claims 24-36 is improper for the following reasons:

The claims are directed to an immunogenic composition that induces the production of neutralizing antibodies in a mammal. Example 3 of the specification on page 16, lines 3-19, show that mice immunized with )V3-GPGRAPH-gp160 developed antibodies which were capable

of neutralizing the infectivity of primary isolates. The Examiner has not fully considered the data disclosed in Tables VII and VIII on pages 17 and 18 of the specification.

Moreover, the enablement rejection fails to distinguish between the claimed invention and "vaccines for human protection." The claims as they stand are not directed to "vaccines." The claims as they stand are directed to immunogenic compositions.

### **CONCLUSION**

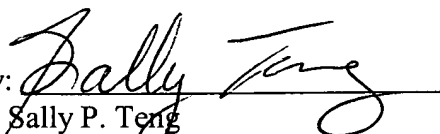
In view of at least the foregoing, Applicant respectfully submits that the final rejections of claims 1, 6-13 are in error and therefore should be reversed. Accordingly, Applicant respectfully requests reconsideration and timely allowance of the pending claims.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: November 7, 2005

By:   
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